



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re PATENT APPLICATION of

HOVANEK

Group Art Unit: 1651

Application Serial No.: 10/659,948

Examiner: IRENE MARX

Filed: September 10, 2003

Title: METHOD OF USING AMMONIA-OXIDIZING BACTERIA

**DECLARATION OF BIOLOGICAL DEPOSIT  
IN COMPLIANCE WITH THE BUDAPEST TREATY**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Carolyn S. Lu, hereby state as follows:

1. I am an attorney of record for the above-identified patent application, and as such I am authorized to act on behalf of Aquaria, Inc., the assignee of the application.
2. Aquaria, Inc. is the assignee of the above-identified patent application as evidenced by an assignment from the inventors to Aquaria, Inc. (Reel/Frame Number 014501/0973).
3. *Nitrospira*-like species: AOB Type A ammonia-oxidizing bacterium represented by R7clone140 (SEQ ID NO:1) was deposited with the American Type Culture Collection (ATCC) under the terms of the Budapest Treaty on May 18, 2000, and assigned accession no. PTA-1888.
4. *Nitosomonas aesturarii*-like ammonia-oxidizing bacterium (AOB) represented by P4clone42 (SEQ ID NO:18) was deposited with the American Type Culture Collection (ATCC) under the terms of the Budapest Treaty on August 28, 2003, and assigned accession no. PTA-5423.
5. The American Type Culture Collection (ATCC) is a depository in accordance with the Budapest Treaty for the above-deposited cultures. Should the cells mutate, become non-viable, non-functional, or be inadvertently destroyed, the assignee will replace such cells for at least thirty years from the date of the original deposit, or for at least five years from

the date of the most recent request for release of a sample, or for the enforceable life of any patent issued on the above-identified application, whichever period is longest.

6. The deposits have been made under conditions of assurance of (a) ready accessibility thereto by the public if an enforceable patent is granted whereby all restrictions to the availability to the public of the cell lines so deposited will be irrevocably removed upon the granting of the patent, and (b) access to the cell lines will be available during pendency of the patent application to one determined by the Commissioner of Patents and Trademarks to be entitled thereto under applicable statutes and regulations.
7. All statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

AQUARIA, INC.

Date: June 12, 2006

By  \_\_\_\_\_

Carolyn S. Lu  
Registration No.: 56,817  
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# ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745



**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE**

**INTERNATIONAL FORM**

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2**

**To: (Name and Address of Depositor or Attorney)**

Aquaria, Inc.  
Attn: Timothy A. Hovanec  
6100 Condor Drive  
Moorpark, CA 93021

**Deposited on Behalf of:** Aquaria, Inc.

**Identification Reference by Depositor:**  
Nitrosospira-like species: Type B - AOB  
Nitrosomonas-like species: Type C - AOB  
Nitrosospira-like species: Type A1 - AOB  
Nitrosospira-like species: Type A - AOB

**Patent Deposit Designation**  
PTA-1885  
PTA-1886  
PTA-1887  
PTA-1888

The deposits were accompanied by     a scientific description     a proposed taxonomic description indicated above. The deposits were received May 18, 2000 by this International Depository Authority and have been accepted.

**AT YOUR REQUEST:**  X  We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested July 3, 2000. On that date, the cultures were viable.

**International Depository Authority:** American Type Culture Collection, Manassas, VA 20110-2209 USA.

**Signature of person having authority to represent ATCC:**

  
Barbara E. Coupé, Administrator, Patent Depository

**Date:** July 10, 2000

**cc:** Ann S. Hobbs, Ph.D. (Ref: 81289/264667)